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6
7 UNITED STATES DISTRICT COURT
8 NORTHERN DISTRICT OF CALIFORNIA
9 SAN JOSE DIVISION
10

11 UNITED STATES OF AMERICA,

Case No.: CR 11-00341 DLJ

12 Plaintiff,

**STIPULATION TO CONTINUE
HEARING AND EXCLUDE TIME;
[PROPOSED] ORDER**

13 v.

14 JAMES KELLEMS,

Honorable D. Lowell Jensen

15 Defendant .
16 _____/

17 Defendant James Kellems and the government, through their respective counsel, hereby
18 stipulate that, subject to the Court's approval, the hearing in the above-captioned matter, presently
19 scheduled for Tuesday, December 13, 2011, at 9:00 a.m., be continued to Thursday, February 2,
20 2012, at 9:00 a.m. The continuance is requested for several reasons. First, in light of the schedules
21 of the magistrate court and counsel, the parties were unable to schedule the anticipated settlement
22 conference prior to December 13. Second, undersigned defense counsel will be going on leave, and
23 new counsel within the Federal Public Defender's Office will require time to become familiar with
24 the case prior to the settlement conference. Third, defense investigation and preparation are ongoing.

25 The parties further agree that time should be excluded under the Speedy Trial Act because the
26 ends of justice served by granting the requested continuance outweigh the interest of the public and

STIP. TO CONTINUE;
[PROPOSED] ORDER
No. CR 11-0341 DLJ

1 the defendant in a speedy trial. The failure to grant the requested continuance would deny defense
 2 counsel reasonable time necessary for effective preparation, taking into account the exercise of due
 3 diligence, and would result in a miscarriage of justice. The parties therefore stipulate that this
 4 exclusion of time should be made under 18 U.S.C. §§ 3161(h)(8)(A) and (B)(iv).

5 Dated: 11/30/11

/s/
 LARA S. VINNARD
 Assistant Federal Public Defender

7 Dated: 11/30/11

/s/
 TOM O'CONNELL
 Assistant United States Attorney

9
 10 **[PROPOSED] ORDER**

11 The parties have jointly requested a continuance of the hearing set for Tuesday December 13,
 12 2011, to allow additional time for participation in a settlement conference; for reassignment of the
 13 case within the Federal Public Defender's Office, and for defense investigation and preparation.
 14 GOOD CAUSE APPEARING, IT IS HEREBY ORDERED that the hearing date presently set for
 15 Tuesday, December 13, at 9:00 a.m., be continued to Thursday, February 2, 2012 at 9:00 a.m.

16 Accordingly, for good cause shown, the Court HEREBY ORDERS that time be excluded
 17 under the Speedy Trial Act from December 13 to February 2, 2012. The Court finds, based on the
 18 aforementioned reasons, that the ends of justice served by granting the requested continuance
 19 outweigh the interest of the public and the defendant in a speedy trial. The failure to grant the
 20 requested continuance would deny defense counsel reasonable time necessary for effective
 21 preparation, taking into account the exercise of due diligence, and would result in a miscarriage of
 22 justice. The Court therefore concludes that this exclusion of time should be made under 18 U.S.C.
 23 §§ 3161(h)(8)(A) and (B)(iv).

24 Dated: December 6, 2011


 D. LOWELL JENSEN
 United States District Judge